

**UTAH AIR QUALITY BOARD MEETING**  
**May 2, 2007**

**FINAL MINUTES**

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**I. Call to Order**

Ernie Wessman, acting chairman, called the meeting to order at 1:36:52 p.m.

Board members present:

Ernest Wessman	Wayne Samuelson	Steve Sands
Jim Horrocks	Stead Burwell	Nan Bunker
Darrell Smith		

Excused: Don Sorensen, Kathy Van Dame, Dianne Nielson, Craig Petersen

Executive Secretary: Richard W. Sprott

**II. Election of Chair and Vice-Chair**

Mr. Wessman opened asking for discussion or nominations for Chair and Vice-Chair of the Board.

- Nan Bunker nominated Ernie Wessman as Chair of the Air Quality Board. Steve Sands seconded. No further discussion. Jim Horrocks moved to have a vote on the Chair. Nan Bunker seconded. The Board approved unanimously.

Mr. Wessman opened nominations for Vice-Chairman of the Air Quality Board.

- Nan Bunker nominated Jim Horrocks as the Vice-Chair for the next year of the Air Quality Board. Steve Sands seconded. Steve Sands made the motion for nominations to cease. Nan Bunker seconded. The Board approved unanimously.

**III. Date of the Next Air Quality Board Meetings**

June 6, 2007 and July 11, 2007.

**IV. Approval of the Minutes for April 4, 2007 Board Meeting**

Minor corrections were made to the Board by Mr. Horrocks to page 3 Item VII under Item 2 and Item 3 to remove the word “unanimously”.

- Jim Horrocks made the motion to approve the April minutes. Nan Bunker seconded. The Board approved unanimously.

**V. Informational Item. Utah Physician's for Healthy Environment. Presented by Dr. Moench.**

Dr. Moench began by stating that it is the mandate of the Air Quality Board to protect the health of the citizens of Utah. State law allows the Air Quality Board to make air quality rulings that are more stringent than EPA regulations where there is clear evidence that those federal regulations are inadequate to protect the public health. He also stated that it is their intention to demonstrate that recently published medical and scientific evidence clearly indicates that in fact EPA's current regulations for air quality and for specific pollutants such as mercury are inadequate for local conditions.

A presentation was then presented to the Board by the Utah Physicians for Healthy Environment.

Following the presentation, several individuals present made comments to the Board concerning the presentation. The common message was to encourage the Board to accept and take the recommendations presented by the Utah Physician's for Healthy Environment seriously.

Dr. Samuelson commended the Utah Physicians for Healthy Environment for the graphic representation that we face. He asked if someone from the group could give a more specific sense of what is going to be required to approach this problem. Can they be more specific about the cost? Not only financially, but what kind of changes we are going to need to make so that we will know which direction we are going in.

Dr. Moench responded that right now the state spends three times as much money on new highway construction than on mass transit. Dr. Moench then presented to the Board the idea that nobody ever died from lack of a new road; but people are dying because mass transit is inconvenient, inadequate, sometimes too expensive, and doesn't provide a serious alternative for people to use.

Dr. Udell commented that actual solutions are yet to be determined. Everybody has some good ideas of what things can be done like mass transit and getting people out of cars, but we don't really know what the best alternative would be in terms of the cost effectiveness.

Dr. Moench commented that there will not be one solution. It will have to be a collection of many small solutions, which they suggested a few today, and that's a good starting point.

Dr. Samuelson stated that, as a member of the Board they've given the Board a directive that he felt it accepted and acknowledged the Board's challenge to institute measures to reduce pollution. He also encouraged them to now help with the marching orders. So people know exactly what's going to be expected of them. He sensed a real commitment in the community and having read the news releases from their previous activities, thinks their commitment is sincere.

Dr. Moench stated that they will try and help and collaborate with other organizations to help lead the charge to change lifestyle habits.

Mr. Burwell had a question about what was the process in which we granted amicus status to PacifiCorp for the power plant permit interventions.

Mr. Wessman responded that to his knowledge, PacifiCorp applied for amicus status in a timely manner when the issue was originally brought before the Board and therefore was able to be considered for that.

Mr. Nelson stated in the previous proceedings, PacifiCorp asked for amicus status to address a couple of issues pending before the Board and they submitted a brief on those issues to the Board on a previous

hearing. In the current proceeding, they asked to intervene and were granted intervention and the schedule has been established based on that. An intervention is different than amicus status.

Mr. Burwell then asked what was the process by which we granted amicus status to PacifiCorp? As he recalled, it was related to the Sevier Power citizens hearing in Richfield. The attorney for PacifiCorp wanted to comment during the IGCC debate.

Mr. Nelson responded that they did and those were the two issues we granted amicus status.

Mr. Burwell then asked if we granted it right then.

Mr. Nelson explained that no, you have to file a Petition to Request. The Board granted the amicus status prior to the meeting, but they submitted a brief. Mr. Nelson then went on to explain amicus status as the ability to address a particular issue that is pending before the Board. So if there is an interest, as in the two appeals, there are specific issues the Board was asked to address. Sierra Club has defined those issues in the Request for Agency Action and they are listed in those Requests for Agency Action. Amicus status means you petition the Board to file a brief on any particular issue that's raised before the Board. The Board can grant or deny that. The party does not present new evidence; it just presents information on that particular issue. They can file a petition to ask for granting amicus status and then the Board would consider that petition and determine whether they would grant amicus status.

Mr. Burwell stated that last week they presented it on some of the issues we were talking about because that's a legacy element.

Mr. Nelson stated, no. They were granted intervention in that proceeding because they have an interest in the process. Intervention is different than amicus. Intervention is a participation in the administrative hearing. Amicus is the ability to file a brief on a particular issue.

Mr. Burwell asked if it was correct that no monitoring is being done between Spanish Fork and St. George.

Mr. Sprott responded that this was correct. He stated that stations have been in various places over the years and based on the monitoring history and area populations we have a good sense of what is found there. There was monitoring performed over a year prior to the application of Sevier Power's permit. PM10 was monitored there and found to be low during all but one day, which was a high wind day. PM2.5, which is the pollutant of even greater concern, was probably only half of that.

Mr. Burwell asked if we are doing any temporary testing between Spanish Fork and St. George over the course of a year. Do we have data? Mr. Sprott responded, no.

Mr. Smith addressed the question to the physicians if they have or plan to take their concerns and information directly to those responsible for transportation throughout the state?

Dr. Moench responded they will be taking this message to church leaders, business leaders, privately and in groups, and to neighborhoods everywhere they can. They're hoping to influence the decision making process from the grassroots as well as from the policymaker's level.

Mr. Smith asked Dr. Moench if this was his first presentation on this level.

Dr. Moench replied that they've made this presentation to Governor Huntsman and the media and that they plan to present it to other political leaders in the future. They hope to meet with the Salt Lake City Chamber of Commerce and many other business groups along the Wasatch front.

Mr. Horrocks commented to the physicians that he appreciates them being here today and applauds their proactive approach and participation in a critical issue to the citizens of the state. He stated that it might be beneficial to them by having a greater knowledge and understanding of what the Division of Air Quality does. His recommendation was to request that staff put together a presentation or information that could be presented to the physician's group to give them a better understanding of the current rules and regulations and how we are moving forward to make changes. Also, that they might know the confines the Board is working within so that suggestions can be more directly applicable to how improvements can be made.

Mr. Sprott indicated that he has met once with the physician's group. It was a good meeting and we made an offer to meet with them.

Mr. Wessman indicated that the questions he had were more directed to the Executive Secretary and Fred Nelson. That is, the physicians, as part of their presentation, made a formal request for a hearing. What is the best process to handle the situation where a report has been made of health affects arising from air quality that would cause the Air Quality Division, as well as the Board, to need to take action in excess of the federal guidelines? Mr. Wessman then asked for suggestions on how the Board should proceed.

Mr. Nelson stated the Board's function involves different kinds of responsibilities. The two hearings that you have scheduled are formal adjudicated hearings. Mr. Nelson's understanding of what they've requested is a hearing to be initiated by the Board as part of its policy making regulatory authority to view information presented, to consider recommendations, and then to take action based on what the Board feels is appropriate for the information that's submitted and the recommendations that have been made. That can be a process that's within the discretion of the Board. There are no statutory or regulatory requirements that constrain you to how that works. So the Board could schedule a public hearing, either as part of a Board meeting or separately, to entertain that process and hear those recommendations and receive information. That is not an adjudicated proceeding. It's a public hearing process. Then based on those recommendations, the Board decides it's going to initiate rulemaking, for example, then it would go in to the formal rulemaking process and that of taking a proposal out for public comment. Mr. Nelson then stated that this proposal as he understood was a request the Board set up a schedule, which is in the Board's discretion to receive information, to have a public hearing. To take that, evaluate it, receive the recommendations and then review and act on that as a next step. That's within the discretion of the Board and the Board can handle that however they would like.

Mr. Sprott stated that he would suggest that the Board go through the material handed out today and collaborate with Mr. Wessman and Mr. Nelson as the best way to proceed in terms of a hearing or forum. Also, to collaborate with Dr. Moench's group and then make a proposal for the next Board meeting.

Mr. Wessman asked the members of the Board if it would be all right if he work with Rick and Fred and develop an action plan, a way forward here, to discuss with the Board during the next scheduled meeting.

- Wayne Samuelson so moved as Mr. Wessman described. Nan Bunker seconded. The Board approved unanimously.

**VI. Final Adoption: R307-110-20 and State Implementation Plan, Section XII Transportation Conformity Consultation. Presented by Rick McKeague.**

Rick McKeague, Environmental Scientist at DAQ, explained that on February 7, 2007, the Air Quality Board proposed for public comment a new Section XII, Transportation Conformity Consultation, of the SIP. The purpose of Section XII is to formalize the current consultation process and to ensure early coordination and negotiation among all parties affected by transportation conformity.

Section XII outlines the procedures to be followed to address transportation-related issues during SIP development. It also outlines the procedures to be followed in the development of conformity determinations on transportation plans, programs, and projects. This section has been developed by the staff from the Division of Air Quality working with staff from the Environmental Protection Agency, the U.S. Department of Transportation, the Utah Department of Transportation, metropolitan planning organizations, and local transit agencies.

For years, we have successfully used the consultation process to develop long-range transportation plans, air quality conformity determinations, and SIPs. This open and coordinated effort has allowed the stakeholders to develop transportation plans that meet mobility needs and emission limits established in the SIP. Formalizing the consultation procedures will recognize successful efforts that stakeholders have invested to improve the consultation process while providing a sturdy framework for solving future transportation and air quality issues.

Section XII is incorporated by reference into the Utah Administrative Code by R307-110-20. A public hearing was held on March 15, 2007. One person attended but did not comment. No written comments were received.

Staff recommends that the new State Implementation Plan, Section XII, Transportation Conformity Consultation be adopted and R307-110-20 be adopted as proposed.

- Steve Sands made the motion to do final adoption: R307-110-20 and State Implementation Plan, Section XII Transportation Conformity Consultation. Nan Bunker seconded. The Board approved unanimous.

**VII. Variance Request – Okland Construction Company, Key Bank Tower Implosion. Presented by Bryce Bird.**

Bryce Bird, Branch Manager at DAQ, explained Grant Mackay Company began discussions with the Division in February of 2007, when they submitted an original variance request to accommodate the implosive demolition of the Key Bank Tower in preparation for the construction of the City Creek Center in downtown Salt Lake City.

Since February the contractor has hired an environmental consulting firm to coordinate the development of the plan for the demolition. Revisions to this variance request and dust control and implosion management plan have been submitted for review and comment by the staff of the Division. The final versions have been provided for your review.

Staff has concluded that this plan describes reasonable controls and mitigation of the impacts of the fugitive dust event. Division staff has reviewed the emissions calculations and has not found any published emissions factors that refute the assumptions made in the emission estimates. The plan also includes an air monitoring effort before, during, and after the demolition that will provide additional

information that can be used to evaluate the emissions from future demolition events. The final monitoring plan will be submitted for the Division's review 30 days prior to the demolition.

The scope of this variance request is specific to relief from the requirements of R307-309-5, which limits opacity to 20% on site and 10% at the property boundary, and R307-309-8 which prohibits the depositing of material on roadways. All other rule requirements including the Board's asbestos removal requirements and Salt Lake Valley Health Department's hazardous materials inspection and removal requirements are still in effect if this variance is granted.

The Division will continue to be involved in the coordination and implementation of the dust management plan as we move forward and the demolition time approaches.

The Division recommends approval of this variance for relief from R307-309-5 and R307-309-8 during and immediately following the scheduled demolition of the Key Bank Tower as described in the variance request provided to the Board.

Mr. Bird then stated that at this time Grant Thomas, Director of Construction Services for Property Reserve and Aaron Hall from Okland Construction were here to answer any questions to this request.

Mr. Horrocks had a question for staff about how this request is different from a previous request for a dormitory at BYU and the potential health risks in which a variance was not granted.

Mr. Bird answered that at that time staff also recommended that the Board not approve that variance based on lack of planning for that event. They had not provided to our satisfaction that they had even considered the issues that the Board had just discussed, impacts on the public, even comparing impacts from one demolition activity or method compared to another. So there wasn't sufficient information provided to staff before that variance request and because of the timing that could not be provided prior to that variance request. In this case, the DAQ staff has been working with the contractors involved for several months. There've been several revisions in the plans that have come to DAQ that it's been able to review, make comment on and corrections have been made and so it is a different situation. DAQ looked across the county at what guidelines were in place. The Division asked for specific accommodations, specific evaluations and we feel that this has been provided in this case where it was not in the case before.

Mr. Horrocks commented that he knew of other buildings that BYU had talked about and the potential of using implosion at points in the future. Will this provide a roadmap of the level of effort that is expected in a submittal?

Mr. Bird indicated yes, just as this submittal reflects what was lacking in the last one. He thought that this could be used for future submittals should the Board approve this variance for granting future variances.

Mr. Wessman questioned if there is criteria for an all systems go type decision. In other words, how would wind speed, weather conditions, an unexpected fire downtown, or whatever it might be, affect whether this event were given permission to go ahead or not by management of the organization conducting the implosion.

Mr. Thomas responded that there are not a specific set of criteria with thresholds on each of them, but all of the things just mentioned have to be taken into consideration on the day that the implosion is planned and if the conditions aren't right then we wouldn't go ahead with the implosion. So we would look at our ability to control access to the area. We'd look at meteorological conditions and what they

are. They will look at the potential for the dust impact cloud or the initial dust cloud, where it's going to go, what it's going to do. They would look at all of those conditions and if they weren't right we wouldn't proceed with the implosion.

Mr. Wessman suggested to Mr. Thomas that it wouldn't hurt to set up some kind of criteria in advance through cooperation with you and the Air Quality staff. It's easier to establish criteria in advance that everybody understands is there. Maybe it's a 15 mile an hour wind or it's some other factors like that that represent limits which then have to be carefully thought through before you go beyond it. It's easier to do it beforehand than in the heat of the battle.

Mr. Thomas was in agreement and indicated they would be happy to work with staff to step through those criteria. Mr. Thomas stated, as was mentioned, all of those things have to be weighed together.

Mr. Sprott indicated that we expect that will be part of our fugitive dust control plan as we go forward.

- Jim Horrocks made the motion to grant the variance request for the block 76 dust control and implosion management plan with a specific expectation that the dust control plan contain specific criteria of determining a go, no go status. Wayne Samuelson seconded.

Mr. Smith had a question regarding where it says, "It says that the fugitive dust then implosion event is not possible." Is that a proven fact or is that an assumption or opinion. He could see how it's pretty hard to control in simple laymen's terms and that's part of the reason for this variance because you can't totally control it. This isn't the first time this has been asked or attempted. So has it been controlled before satisfactory without a variance?

Mr. Thomas responded that what they are trying to do comes in through a series of factors. One is what they call site design. And that's to try to do some things at the site that will help contain fugitive dust. For instance, there's a set of walls that will be demolished in the future along Main Street. They are going to leave those walls in place so that they can help contain it. They basically have a situation where they have a pit for when the building comes down and there's a good opportunity to try to control as much of the dust as we can. So they have looked at that hard. They obviously will be wetting the debris pile right away to try to limit the amount of dust. As they discussed just before, they will be looking at wind conditions and meteorological conditions. The best conditions we think are at 6:00 a.m. on a Saturday. That's the least impact to the public but it's also the right time of day to carry out this kind of an operation.

- Ernie Wessman indicated that a motion has been made and seconded and is on the floor to approve the variance request of Okland Construction Company to implode the Key Bank Tower. The Board approved unanimously.

## **VIII. Informational Items**

**A. Compliance. Presented by Harold Burge and Jay Morris.**

**B. HAPS. Presented by Robert Ford.**

**C. Monitoring. Presented by Bob Dalley.**

Mr. Dalley updated the Board on the latest air monitoring data.

Mr. Sprott brought to the Board's attention Air Quality's new item on the webpage indicating real time conditions by using a thermometer showing ozone and particulate for each air shed along the Wasatch front and Cache valley.

Mr. Smith had a question about the statement to this being typically the clean time of the year and how it compares with last year. Mr. Dalley responded that it's the same and that this is a low time of the year for particulate values. Mr. Dalley also brought to the Board's attention that the ozone monitoring season began May 1<sup>st</sup> and those values will be reported next month.

Mr. Smith asked about the creation of adding more air monitoring stations throughout the state and if they are periodically moved around. Mr. Dalley responded by explaining the criteria the Division uses to determine the monitoring station sites and that they will relocate a monitoring station if needed.

Mr. Burwell commented that with the ongoing issue of Sevier Power, it would be nice to have some data to assess and to compare impact, changes, etc. Mr. Dalley indicated that his data covered one year and it was done about two or three years ago. Mr. Sprott agreed but that the challenge is resources and trying to hit the highest threat areas. Mr. Sprott brought up the current operation in Vernal and also stated that as a result of the publicity on air quality recently, we will be working with the Legislature on funding and resources. In fact, some of on the Board were asked to join a task force this summer with the Legislature, environmental groups, and business to find ways to better fund the Division for these kind of things.

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Meeting was adjourned at 3:35:17 p.m.